

August 31, 2018

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-B204  
Washington, DC 20554

**Re: Notice of *Ex Parte* in WC Docket Nos. 13-184, 10-90  
FY 2019 E-rate Eligible Services List Public Notice (DA 18-789)  
Second Report and Order and Order on Reconsideration (FCC 14-189)**

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, we hereby provide notice of an oral *ex parte* presentation in connection with the above-captioned proceedings on Wednesday, August 29, 2018. John Windhausen, Executive Director, and Debra Kriete, SHLB Board member and chair of the SHLB E-rate Group, attended the meeting. Members of the FCC's Wireline Competition Bureau and Office of Managing Director attended as follows:

Mark Stephens, Managing Director, Office of Managing Director (OMD)  
Deena Shetler, Acting Deputy Managing Director, OMD  
Kris Monteith, Chief, Wireline Competition Bureau (WCB)  
D'wana Terry, Associate Bureau Chief, WCB  
Arielle Roth, Legal Advisor, Office of the Bureau Chief, WCB  
Ryan Palmer, Chief, Telecommunications Access Policy Division (TAPD), WCB  
Gabriella Gross, Deputy Division Chief, TAPD, WCB  
Kate Dumouchel, TAPD, WCB  
Aaron Garza, Special Counsel, TAPD, WCB  
Bryan Boyle, TAPD, WCB  
Stephanie Minnock, TAPD

The following topics were discussed during the meeting.

- We discussed the joint comments filed by SHLB and the State E-rate Coordinators' Alliance on August 23, 2018 concerning the proposed renewal of FCC Forms 470 and 471 under the Paperwork Reduction Act.<sup>1</sup> We explained that there were numerous concerns with the current version of the forms including but not limited to:
  - Form 470 drop down menu of service descriptions for Category 1 services combines Internet service delivered over a fiber circuit with leased lit fiber service. Applicants must explain which service they are requesting bids for in a narrative text box that does not allow prospective bidders to easily identify the bidding opportunities for purely fiber-based service and for Internet service delivered over a fiber circuit.
  - The current Forms 470 and 471 lack formal instructions. Although it was originally contemplated that all necessary instructions would be embedded in the online forms, this has not occurred. The limited helper text in the online forms does not provide adequate

---

<sup>1</sup> OMB Control Number 3060-0806, 83 FR 23677, Comments submitted July 23, 2018.

direction. When applicants do not complete the forms properly, the need for pre-funding commitment outreach by the SLD increases, which delays the issuance of funding commitment decisions letter and undermines the goals of simplification and efficiency of the program.

- The Form 470 Category 2 section of the form has three subcategories: Internal Connections, Managed Internal Broadband Services and Basic Maintenance of Internal Connections. Applicants must first select a subcategory and then specify the particular component or service for which they request proposals. If they select the incorrect subcategory on the Form 470 and apply for funding in a different category on their Form 471, they are subject to funding denials for this ministerial oversight. We recommend abolishing the subcategories and simply creating a menu of equipment and services for which Category 2 service requests may be selected by applicants. The subcategories are not needed, and their elimination will simplify the Form 470 and eliminate a potential hazard for applicants' inadvertent errors leading to funding denials.
- We encouraged the FCC to request OMB to extend the effective date of the current version of the Form 470 to June 30, 2019 and the Form 471 to January 1, 2020. We asked the FCC to publish updated draft forms and instructions to resolve the concerns raised in the SHLB/SECA comments, receive public comment and then finalize the new forms.
- We touched on the upcoming Category 2 staff report mentioned in the FCC's December 2014 E-rate Modernization Order and requested that there be a process to allow for interested parties to review and comment on the report. We also encouraged the FCC to continue the Category 2 budget program and that adjustments may be made to improve and enhance the program.
- We urged the FCC to finalize the pending PIA review procedures for fiber applications that request funding for special construction. Applicants are very anxious to move forward with their projects, but many await their funding commitment decisions letter before they can begin their projects.
- We expressed concerns with the recent change in guidance concerning the permissibility of product demonstrations and loans from vendors to applicants. The Sixth Report and Order in CC Docket No. 02-6 (FCC 10-175), Paragraph 92, states that product demonstrations may occur during the 28-day bidding period provided that all parties are privy to the same information from the applicant during that period and the communications are consistent with any applicable state or local competitive bidding requirements. A recent update to the SLD website now states that loans of products, including those characterized as on-site product demonstrations, are prohibited by the gift rule restrictions. <https://www.usac.org/sl/applicants/step01/gift-rules.aspx> We explained that product demonstrations and short-term product loans are vital to ensure applicants can meaningfully evaluate the functionality of equipment when evaluating proposals for equipment, and particularly for alternative manufacturers' equipment as required by the FCC's Queen of Peace Decision.<sup>2</sup>
- We mentioned our concern about the delay in announcing the fall trainings that USAC conducts in person to provide guidance to applicants. Typically, the training schedule is announced in June or July. Most State E-rate Coordinators have delayed the scheduling of their state trainings

---

<sup>2</sup> “[A]pplicants must not include the manufacturer’s name or brand on their FCC Form 470 or in their RFPs unless they also use the words “or equivalent” to describe the requested product or service. ... As required by our rules, applicants must carefully consider all of the bids received before selecting a winning bidder.” (footnote omitted). Request for Review of Decision of the Universal Service Administrator by Queen of Peace High School, Order, CC Docket No. 02-6, SLD File No. 667006 (DA 11-1991)(Order released December 7, 2011).

until the USAC trainings are scheduled and held. We hope that the announcement will be forthcoming very soon.

- We also asked the FCC staff to consider ways in which interested parties may engage in more collaborative and informal input prior to decisions being announced. We are appreciative the willingness of the FCC staff and USAC staff to meet with us, but the meetings do not lend themselves to a collaborative discussion of issues and proposed solutions. We hope that a more open dialogue may be established to seek the input of interested parties.

Sincerely,

A handwritten signature in black ink that reads "John Windhausen, Jr." with a stylized flourish at the end.

John Windhausen, Jr.  
Executive Director, SHLB Coalition  
1250 Connecticut Ave. NW Suite 700  
Washington, DC  
20036  
[jwindhausen@shlb.org](mailto:jwindhausen@shlb.org)  
(202) 263-4626